

September 9, 2022

Via Electronic Mail

Governor Larry Hogan
100 State Circle
Annapolis, MD 21401

Secretary Lourdes Padilla
Department of Human Services
311 W. Saratoga Street
Baltimore, MD 21201

Re: Request for Immediate Action to Address Electronic Skimming Theft of SNAP, TCA, TDAP Benefits and Issue Replacement Benefits to Support Victims

Dear Governor Hogan and Secretary Padilla:

We urge the Maryland Department of Human Services (Department) to take immediate action to strengthen the security of Electronic Benefit Transfer (EBT) cards and issue replacement benefits to victims of theft. As advocates who assist Marylanders experiencing poverty and food insecurity, we have heard from countless families about the harm caused by the Department's inadequate response to the rise in skimming and cloning of EBT cards that result in theft of Supplemental Nutrition Assistance Program (SNAP), Temporary Cash Assistance (TCA) and Temporary Disability Assistance Program (TDAP) benefits. Victims of benefit theft are suffering from hunger, experiencing utility termination, and facing eviction, among other crises that are avoidable and are the result of the Department's failure to timely and adequately respond.

Since 2021, the Department has been well-aware of a rise in reports of EBT card skimming schemes in Maryland. Skimming occurs when an illegal device is placed on an ATM or card machine and collects data. This allows the card to be cloned and later used to steal the benefits without the original card. The Department's own records indicate that this has impacted 360 households in the year 2022, and we believe this is a drastic undercount because that total only includes data from when the Department has tracked it and from victims who have self-reported the issue. The Department has refused to issue replacement benefits, quickly replace EBT cards for free, nor take any basic steps to increase security so Marylanders are less likely to be victims of this type of theft. The most the Department has done is inform victims to take unreasonable steps such as canceling their card and filing a police report. Some victims have even been advised to go to the ATM or grocery store at midnight to withdraw their entire benefit as soon as it is deposited to avoid a future theft. The Department's overall failure to act not only places the burden of responsibility on the victims, but also forces victims to survive the remainder of the month without food and/or income. This inaction contradicts the Department's very mission and purpose, as the State's human services provider, to help vulnerable Marylanders buy food and

pay for basic life expenses such as rent, utilities, transportation, and diapers. We request the Department take immediate action as follows:

1. Immediately issue replacement benefits to individuals and families who lost benefits due to EBT skimming.

The Department must help individuals and families who lost critical food and income due to skimming by immediately issuing replacement funds. There are no legal prohibitions preventing the Department from restoring stolen benefits, thus its refusal to do so is nothing more than a harmful and unnecessary policy choice.¹ Other jurisdictions have issued replacement benefits in similar circumstances.² If the Department is unable to use federal funds for this purpose, we request the Governor make state funds available.

- **SNAP benefits:** The Department could use state funds to issue replacement SNAP benefits. Nothing in federal or state law prevents the Department from using state funds to replace benefits lost due to theft.³
- **TCA benefits:** The Department could use federal or state funds to replace TCA benefits. Nothing in the federal Temporary Assistance for Needy Families (TANF) law or regulations prevents the Department from reimbursing victims of theft.⁴
- **TDAP benefits:** As this is a State-funded program, there is nothing in Maryland's TDAP statute preventing the Department from using state funds to issue replacement TDAP benefits.

When issuing replacement benefits, the Department should offer an individual or family the option to pick up a paper check or new EBT card in person at their local Department of Social Service (DSS) office the same day the theft is reported. The Department should not require a police report in order to issue replacement benefits and must provide clear guidance to all DSS staff that police reports are optional and not required.

¹ See Ashley Burnside, The Center for Law and Social Policy, "Five Ways State Agencies Can Support EBT Users at Risk of 'Skimming'" (July 13, 2022), available at <https://www.clasp.org/blog/five-ways-state-agencies-can-support-ebt-users-at-risk-of-skimming/> (last accessed September 9, 2022).

² See e.g. DC Department of Human Services, "DHS Identifies Possible Compromised Benefits," (March 3, 2022), available at <https://dhs.dc.gov/release/dhs-identifies-possible-compromised-benefits-press-release> (last accessed September 9, 2022).

³ The Department likely already has state SNAP funds that are unused and could be allocated for this purpose. For example, the Department could use the funds it has saved by not having to issue the state supplemental benefit for older adults since the start of the pandemic in 2020, due to the federal emergency allotment providing the maximum amount for all households.

⁴ The Department could use unspent federal TANF funds for this purpose. Unspent federal TANF funds can be carried over from year to year. As of 2020, Maryland had \$50,000 in unspent TANF block grant funds. See Center on Budget and Policy Priorities, "Maryland TANF Spending," available at https://www.cbpp.org/sites/default/files/atoms/files/tanf_spending_md.pdf (last accessed September 9, 2022).

2. The Department must immediately replace skimmed EBT cards for free in person and by mail.

The Department must offer individuals the option to pick up a new card in person at the Department's offices or to receive a new card through overnight mail. Currently, the only option for victims is to wait weeks to months to receive a replacement card by mail. DSS offices are incorrectly turning people away who request replacement cards in person which is a violation of state policy that permits emergency issuance of replacement cards to people facing an individual hardship. We request the Department clarify with all DSS offices that these emergency "vault" cards should be immediately issued to anyone who does not have an EBT card or who has experienced loss of benefits. Additionally, the Department should not charge the \$2.00 fee for issuance of a replacement card for people whose cards have been skimmed or cloned.

3. The Department must strengthen security of EBT cards and must proactively alert Marylanders about the risk of skimming.

The Department must collaborate with Conduent (the EBT card company) to adopt security measures and practices that protect the EBT cards from skimming and other unauthorized use. The Department should also utilize mass messaging (email, text messages, and notices) to alert EBT card holders about the increased risk of card skimming. These messages should be in easy-to-understand language, made available in multiple languages, and should include visuals of what a skimming device may look like at ATMs and point of purchase machines.⁵ The resources can also include simple and fast ways to change a PIN online and by phone, recommendations on how often a PIN should be changed, and information that replacement benefits are available. Finally, the Department should also look for patterns in EBT card activity that could be early indicators of skimming, then promptly contact the EBT card holder to determine whether benefits were skimmed and offer support.

Theft of benefits due to skimming is causing financial, food, and housing insecurities, all of which are having a detrimental impact on the health and well-being of Marylanders living in poverty. The Department's response to date is unacceptable, contradicts its purpose, and lacks the urgency families in crisis deserve. We appreciate the opportunity to convey our concerns and we urge the Department to take immediate action to strengthen security of EBT cards, timely issue replacement benefits and cards to victims of theft, and improve communication with individuals enrolled in SNAP, TCA, and TDAP about the risk of skimming.

Sincerely,

Anne Arundel County Food Bank
Baltimore Jewish Council
CASH Campaign of Maryland
Civil Advocacy Clinic at the University of Baltimore School of Law

⁵ See for example this flyer by the NY Department of Social Services, "Protect Your Benefits from Skimming! What is Skimming?" available at https://www1.nyc.gov/assets/hra/downloads/pdf/services/program_integrity/FLY-1095-Protect-Your-Benefits-Skimming-en.pdf (last accessed September 9, 2022).

Disability Rights Maryland
Health Care for the Homeless
Homeless Persons Representation Project
Jews United for Justice
Maryland Center on Economic Policy
Maryland Consumer Rights Coalition
Maryland Hunger Solutions
Maryland Legal Aid
Montgomery County Food Council
Prince George's County Food Equity Council
Public Justice Center
Strong Future Maryland
Welfare Advocates

cc: Senate Finance Committee

Senate President Bill Ferguson

House Speaker Adrienne Jones

Delegate Kirill Reznik, Chair of the Health & Social Services Subcommittee

Attorney General Brian Frosh

Mischelle Williams, Director, Supplemental Nutrition Assistance Program, DHS

Netsanet Kibret, Deputy Secretary of Programs, DHS

La Sherra Ayala, Acting Executive Director, Family Investment Administration, DHS

Jacqueline "Tina" Turner, Director, Office of Cash Programs

Augustin Ntabaganyimana, Deputy Executive Director, Office of Programs, DHS